

WETLANDS COUNCIL

MINUTES

July 26, 2005

The Wetlands Council met on Tuesday, July 26, 2005 at the
Department of Environmental Services, 29 Hazen Dr., Concord, NH

Attendees: Lawrence E. Morse, Vice Chair, Thomas G. Chrisenton, John S. Cobb, William Dannehy, William Ingham, Jr., Glenn Normandeau, Seth Prescott and Russ St. Pierre

Absentees: Brian K. Fowler, Camilla Lockwood, Sharon Champagne, Ben Frost and Thomas Sloan

The meeting was called to order by Vice Chairman Lawrence E. Morse at 9:00 a.m.

1. **Approval of Minutes of April 12, 2005 Meeting**

A motion was made by Councilor Cobb and seconded by Councilor Normandeau to accept the minutes of April 12, 2005 as presented. It was unanimously voted.

3. **Env-WtC 100 and Env-WtC 200**

Ratification of Vote to Proceed with Rulemaking

Attorney Gretchen Hamel explained that rulemaking notices have been filed for the Wetlands Council rules Env-WtC 100 and Env-WtC 200. A public hearing has been scheduled for September 13, 2005 at 10:00 a.m.

A motion was made by Councilor Dannehy and seconded by Councilor Cobb to accept the rules revisions as presented and to ratify authorization to Attorney Gretchen Hamel to proceed with the rulemaking process. It was unanimously voted.

2. **Status of Appeals**

Michael Sclafani, Appeals Clerk, distributed an Appeals Status Report and reviewed the report with council members.

- **Docket No. 02-16 WtC - Donald S. Thompson: WB #2002-01019**
Settlement negotiations have not been successful and, at appellant's request, Mr. Sclafani will schedule a second prehearing conference.
- **Docket No. 03-11 WtC - Town of Barrington/Town of Nottingham**
A stay remains in effect. Mr. Sclafani will request that the parties file a written status report prior to the next council meeting.

- Docket No. 04-20 WtC - 27 Members of Focus Tamworth: WB #2004-00377
This appeal was heard on April 12, 2005. The council voted to deny the appeal and a written Decision & Order to Deny the Appeal was issued on May 3, 2005. A request for reconsideration has not been filed and, therefore, the appeal is now closed.
- Docket No. 04-21 WtC - Lakeshore Realty Trust: WB #2001-01294
On April 22, 2005 an Assented-to Motion to Continue for an additional 120 days was filed by the appellant. On May 3, 2005 a written Decision & Order to grant the Assented-to Motion to Continue was issued.
- Docket No. 04-23 WtC - John and Patricia Booth: WB #2004-00668
On April 8, 2005 the appellants filed a Motion to Stay pending a decision by the superior court on a declaratory judgment action. On April 15, 2005 DES filed an objection to the Motion to Stay. On May 3, 2005 a written Decision & Order granting the Motion to Stay was issued.
- Docket No. 05-04 WtC - Philip and Georgette Smith: WB #2000-00914
On April 12, 2005 the council accepted this appeal and granted the Motion to Intervene by Levine. A Certified Record was filed by DES on April 27, 2005. On June 13, 2005 Attorney Kerry Barnsley filed an appearance on behalf of DES. A pre-hearing conference was held on June 14, 2005 and a Prehearing Order and Appeal Hearing Notice were issued on June 15, 2005. On July 15, 2005, the parties filed a Stipulation of Material Facts and the applicant filed a Prehearing Memo. Appellant's Prehearing Memo was filed on July 18, 2005 with an amended Prehearing Memo filed on July 22, 2005. The appeal hearing will go forward on July 26, 2005 at 11:00 a.m.
- Docket No. 05-05 WtC - Steven Seufert: WB #2003-00296
The council accepted this appeal at its April 12, 2005 meeting. A Certified Record was filed by DES on April 27, 2005. On June 13, 2005 Attorney Kerry Barnsley filed an appearance and a Motion to Dismiss on behalf of DES. A pre-hearing conference was held on June 14, 2005 and a Prehearing Order and Appeal Hearing Notice were issued on June 15, 2005. The appeal hearing will go forward on July 26, 2005 at 10:00 a.m.
- Docket No. 05-08 WtC - Renate Ranniger WB #2004-01185
This is an appeal of the Wetlands Bureau decision to grant a permit to Spectrum Investment Group to reconfigure an existing breakwater on property of James and Anna Coleman on Black Cat Island, Meredith, NH which was timely filed on June 1, 2005.

***A motion was made by Councilor Chrisenton to accept the appeal.
Councilor Ingham seconded the motion and it was unanimously voted.***

4. Wetlands Bureau Update

Collis Adams, Wetlands Bureau Administrator, presented an update on bureau activities.

Staffing

Mr. Adams stated that the hiring freeze has been lifted on several positions in the Wetlands Bureau and the bureau is now in the process of posting and interviewing for two permitting positions, two compliance positions, and one support staff position. Mr. Adams added that the legislature will be revisiting the wetlands fee structure in 2006 and, in order for the bureau to remain at full staff, it is important that the fee structure continue at 10 cents per square foot.

Rulemaking Staff

Mr. Adams indicated that a request has been made to upgrade the current part-time rulemaking position into a full-time position to support rulemaking efforts for the Wetlands Bureau, Subsurface Bureau and Site Specific Section. The position would be funded out of the Wetlands fee account, which would be reimbursed by Subsurface and Site Specific for work performed on their behalf.

In-Lieu Fee Program

SB 140, which would allow DES to accept in-lieu payments for wetland preservation/restoration, passed in the Senate and has been retained in an RR&D subcommittee of the House. Mr. Adams will be working with the legislators when they return from summer recess to address the issues raised in committee.

Waiver Process

The bureau has been successful in adding a waiver process to the wetlands rules and is now developing forms and instructions to guide applicants through the process.

Comprehensive Shoreland Protection Act

SB83 establishes a committee to look at the CSPA and make recommendations on how the law and the bureau's administrative rules can be clarified and made more consistent among towns and state agencies. The first meeting will be in August with a preliminary report due to the House by November.

Other

Councilors Dannehy and Chrisenton indicated that they had heard many positive comments on the implementation of the new forestry rules administered by Vanessa Burnes, Permit-By-Notification Specialist of the Wetlands Bureau.

Councilor Morse asked for an update on the new permit-by-notification rules. Mr. Adams indicated that on average eight to twelve permit-by-notification applications are approved weekly. Mr. Adams also indicated that revenues have been steady with applications running ahead of last fiscal year.

Councilor Normandeau suggested that as a method of controlling dock sprawl the bureau consider promoting community dock systems for proposed multi-lot shorefront developments.

5. Old Business

There is no old business to come before the council.

6. **Other Business**

There is no other business to come before the council.

7. **Next Meeting**

The next meeting will be on Tuesday, September 13, 2005.

8. **Adjournment**

A motion was made by Councilor Cobb to adjourn. Councilor Dannehy seconded the motion and it was unanimously voted.

The meeting adjourned at approximately 9:30 a.m.